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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/567,986	07/05/2007	Joseph Lanzarotta	P03040US2A	7510

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BRIDGESTONE AMERICAS, INC.
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EXAMINER
CHEUNG, WILLIAM K

ART UNIT	PAPER NUMBER
1796	

NOTIFICATION DATE	DELIVERY MODE
04/23/2010	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

iplawpat@bfusa.com

Advisory Action *Before the Filing of an Appeal Brief*	Application No. *10/567,986*	Applicant(s) LANZAROTTA ET AL.	
	Examiner WILLIAM K. CHEUNG	Art Unit 1796	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED <u>14 April 2010</u> FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE.

1. ☒ The reply was filed after a final rejection, but prior to or on the same day as filing a Notice of Appeal. To avoid abandonment of this application, applicant must timely file one of the following replies: (1) an amendment, affidavit, or other evidence, which places the application in condition for allowance; (2) a Notice of Appeal (with appeal fee) in compliance with 37 CFR 41.31; or (3) a Request for Continued Examination (RCE) in compliance with 37 CFR 1.114. The reply must be filed within one of the following time periods:

  a) ☒ The period for reply expires <u>3</u> months from the mailing date of the final rejection.

  b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection.

          Examiner Note: If box 1 is checked, check either box (a) or (b). ONLY CHECK BOX (b) WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in box b if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

<u>NOTICE OF APPEAL</u>

2. ☐ The Notice of Appeal was filed on _____. A brief in compliance with 37 CFR 41.37 must be filed within two months of the date of filing the Notice of Appeal (37 CFR 41.37(a)), or any extension thereof (37 CFR 41.37(e)), to avoid dismissal of the appeal. Since a Notice of Appeal has been filed, any reply must be filed within the time period set forth in 37 CFR 41.37(a).

<u>AMENDMENTS</u>

3. ☐ The proposed amendment(s) filed after a final rejection, but prior to the date of filing a brief, will <u>not</u> be entered because

    (a)☐ They raise new issues that would require further consideration and/or search (see NOTE below);

    (b)☐ They raise the issue of new matter (see NOTE below);

    (c)☐ They are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or

    (d)☐ They present additional claims without canceling a corresponding number of finally rejected claims.

        NOTE: _____. (See 37 CFR 1.116 and 41.33(a)).

4. ☐ The amendments are not in compliance with 37 CFR 1.121. See attached Notice of Non-Compliant Amendment (PTOL-324).

5. ☐ Applicant's reply has overcome the following rejection(s): _____.

6. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).

7. ☒ For purposes of appeal, the proposed amendment(s): a) ☒ will not be entered, or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

    The status of the claim(s) is (or will be) as follows:

    Claim(s) allowed: <u>none</u>.

    Claim(s) objected to: <u>none</u>.

    Claim(s) rejected: <u>1-20</u>.

    Claim(s) withdrawn from consideration: <u>none</u>.

<u>AFFIDAVIT OR OTHER EVIDENCE</u>

8. ☒ The affidavit or other evidence filed after a final action, but before or on the date of filing a Notice of Appeal will <u>not</u> be entered because applicant failed to provide a showing of good and sufficient reasons why the affidavit or other evidence is necessary and was not earlier presented. See 37 CFR 1.116(e).

9. ☐ The affidavit or other evidence filed after the date of filing a Notice of Appeal, but prior to the date of filing a brief, will <u>not</u> be entered because the affidavit or other evidence failed to overcome <u>all</u> rejections under appeal and/or appellant fails to provide a showing a good and sufficient reasons why it is necessary and was not earlier presented. See 37 CFR 41.33(d)(1).

10. ☐ The affidavit or other evidence is entered. An explanation of the status of the claims after entry is below or attached.

<u>REQUEST FOR RECONSIDERATION/OTHER</u>

11. ☒ The request for reconsideration has been considered but does NOT place the application in condition for allowance because: <u>Regarding applicants' argument that EPDM is a thermoset polymer instead of a thermoplastic because applicants believes that a thermoplastic can be heat recycle multiple times while a thermoset polymer can not, applicants fail to recognize that a thermoplastic is a polymer that can be dissolved or can flow when heated, while a thermoset polymer does not. Applicants must recognize that EPDM is a thermoplastic material to begin with. However, after chemical treatment or reactive processing, the thermoplastic EPDM is crosslinked (vulcanized) into a thermosetting elastomer. However, such heat treating process does not mean that the starting material EPDM is a thermoset. Applicants must recognize that polyethylene which is a thermoplastic material and can still be crosslinked into a thermoset with an organic peroxide. For polyethylene, the heat treating process does not re-label polyethylene as a thermoplastic. The same is true for EPDM, the heat treating process does not allow the EPDM to be re-labelled as a thermoset. In view of the reasons set forth above, applicants' argument is not persuasive. Regarding applicants' argument that claim 16, the recitation "exclusive of an alkali metal salt of an alkylsulphonic or alkylsulfuric acid" means that the rubber excludes everything but "alkali metal salt of an alkylsulphonic or alkylsulfuric acid". However, such argument is inconsistent with the response filed March 10, 2010 (page 9, line 3-5), which clearly states that "alkali metal salt of alkylsuphonic or alkysuphuric acid" are excluded by claim 16. In view of such inconsistency, applicants' argument is not persuasive. The rejections set forth are maintained.</u>

12. ☐ Note the attached Information *Disclosure Statement(s)*. (PTO/SB/08) Paper No(s). _____.

13. ☐ Other: _____.

/William K Cheung/
Primary Examiner, Art Unit 1796
April 20, 2010